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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DONNA L. MCKEREGHAN,

Plaintiff - Appellant,

v.

THE CITY OF SPOKANE; et al.,

Defendants - Appellees.

No. 07-36074

D.C. No. CV-06-00215-EFS

MEMORANDUM^{*}

Appeal from the United States District Court
for the Eastern District of Washington
Edward F. Shea, District Judge, Presiding

Submitted March 18, 2009^{**}

Before: LEAVY, HAWKINS, and TASHIMA, Circuit Judges.

Donna L. McKereghan appeals pro se from the district court's summary judgment in favor of the City of Spokane and various City employees (the "City") in her action alleging violation of the Americans with Disabilities Act ("ADA"),

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

and other causes of action. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *Snead v. Metro. Prop. & Cas. Ins. Co.*, 237 F.3d 1080, 1087 (9th Cir. 2001), and may affirm on any ground supported by the record, *Atel Fin. Corp. v. Quaker Coal Co.*, 321 F.3d 924, 926 (9th Cir. 2003). We affirm.

The district court properly granted summary judgment on McKereghan's claim that the City did not hire her as a public information coordinator on the basis of her disability, because McKereghan failed to create a triable issue as to whether the City's legitimate and nondiscriminatory reason was pretext for discrimination. *See Snead*, 237 F.3d at 1093-94 (affirming summary judgment for employer on ADA claim where plaintiff failed to present sufficient evidence that proffered reason was pretext for discrimination).

We affirm summary judgment on McKereghan's claim that the City's qualification standard for the position violated the ADA, because the record supports the district court's conclusion that the qualification standards were a business necessity. *See* 42 U.S.C. § 12113(a); *Bates v. United Parcel Serv., Inc.*, 511 F.3d 974, 994-97 (9th Cir. 2007) (en banc) (explaining contours of the affirmative defense of "business necessity" for the use of a qualification standard that may screen out an individual with a disability).

McKereghan's remaining contentions are unavailing.

AFFIRMED.